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HB 76 RELATING TO PUBLIC HEALTH

Statement for
House Committee on
Health
Public Hearing - February 5, 1991

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HB 76 would amend HRS 321-11.6 by requiring that any proposal to release a genetically modified organism that has been altered at the molecular or single cell level must comply with HRS 343. HRS 343 would be amended accordingly to include such a proposed action as a trigger for requiring an Environmental Assessment.

Our statement on this bill does not represent an institutional position of the University of Hawaii.

HB 76 is an attempt to address the potential environmental risks to the State of Hawaii associated with the release of genetically modified organisms. Our reviewers concur with the intent of the bill however, we have some serious reservations about the mechanism to accomplish the intent and in particular the proposed amendments to HRS 343.

HB 76 is patterned after HB 2669 introduced in the 1990 legislative session. In our previous testimony, we pointed out that existing statutes (HRS 321-11.6) regarding genetically modified organisms require only that any applicant to a federal agency for a permit for or approval of any bioproduct, field testing, or environmental impact assessment of genetically modified organisms submit a copy of the application for the permit to the Department of Health. No specific state permit or approval is required and the notification required by HRS 321-11.6 is simply that, a notification.

There are no statutory provisions for state review or discretionary recommendations on whether or not the permit should be granted.

The focus of HB 76 is to use HRS 343, the Environmental Impact Statement law, as the basis for assessing the impacts associated with the release of a genetically modified organism. However, HRS 343 is not a regulatory statute. Given the risks to be considered and the need for discretionary judgement, a regulatory statute would seem more appropriate. Another issue is the need for coordination between the Departments of Health and Agriculture in view of their responsibilities. For example, under present statutes the only specific citation for genetically modified organisms is found under Department of Health statutes 321-11.6. Yet, the Department of Agriculture has the statutory responsibility to regulate the importation of various species of plants, animals, fungi, bacteria, or virus, or, presumably genetically modified organisms.

We suggest that consideration be given to amending the language in HRS 321-11.6 and 150A-5 (1) so as to require:

a permit from the Department of Agriculture prior to importation of any genetically modified organism that has been altered at the molecular or single cell level;

a review of the public health, agriculture and environmental ramifications of any proposed importation of genetically modified organism; and,

coordination between the Departments of Agriculture and Health with approval required from the DOH prior to importation of genetically modified organisms that have implications to public health.

Under HRS 150A-5 (1) the DOA has the authority to develop rules to designate restricted items that will require a permit from the department prior to importation. The restricted articles shall include, but not be limited to, fungi, bacteria, virus, or living insects. We suggest amendment of HRS 150A-5(1) to add to the list of restricted articles requiring a permit under this section, "a genetically modified organism that has been altered at the molecular or single cell level".

To assure adequate review and coordination, the following language is suggested:

As part of the permit application review process DOA and DOH shall consider the implications and risk to public health, agriculture, and the environment. Any application for a permit under 150A-5 which has public health implications shall require review and concurrence of DOH prior to issuance of an importation permit.

Other suggested amendments to HB 76 are as follows:

Section 1, page 1, line 4:

...applicant to any federal, state or county agency....

Section 1, page 1, line 12:

...single cell level shall comply with [Chapter 343] HRS 150A-5(1).

Section 2. Delete.

As you may know, the 1990 legislature appropriated funds to support a comprehensive review of HRS 343 by the Environmental Center. We are well along in this process and we expect to have a draft report ready for review in March. The final report will incorporate comments received on the draft and will be submitted in the late spring. At that stage a small working group with representation from key legislative committees, the administration and agencies can meet to develop specific legislative amendments to HRS 343 for action by the 1992 legislature. Hence, we urge that amendment of HRS 343 be deferred until after our final report has been submitted.